

FILED

OCT 23 2019

Clerk, U S District Court
District Of Montana
Billings

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

KRISTEE RAE LANG,

Plaintiff,

vs.

U.S. POSTAL SERVICE, et al.,

Defendants.

CV 19-47-BLG-SPW

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS**

The United States Magistrate Judge filed an Order and Findings and Recommendations on October 2, 2019. (Doc. 20.) The Magistrate denied Ms. Lang's motion to seal this case and recommended the Court dismiss the matter and certify that any appeal would not be taken in good faith. (Doc. 20 at 3–4.)

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days after the Magistrate files Findings and Recommendations. When a party timely objects to any portion of the Magistrate's Findings and Recommendations, the Court must review those portions of the Findings and Recommendations de novo. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further

evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1). The Court does not need to review the factual and legal conclusions to which the parties do not object. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

After Ms. Lang initially filed her complaint, the Magistrate determined it was frivolous and failed to state a claim upon which relief could be granted. (Doc. 14.) The Magistrate provided Ms. Lang the opportunity to file an amended complaint. (*Id.*) She failed to do so. Therefore, the Magistrate recommended the Court dismiss the case. (Doc. 20 at 2–3.) Ms. Lang then filed a letter with the Court on October 10, 2019, which the Court construes as objecting to the Magistrate’s Findings and Recommendations. (Doc. 21.)

However, other than stating she “was not being frivolous,” Ms. Lang’s letter does not address the Magistrate’s Findings and Recommendations at all. (Doc. 21 at 1.) Having reviewed Ms. Lang’s objections and her numerous letters to the Magistrate (Docs. 4, 5, 6, 10, 11, 12, 13, 15, 16, 19, 21), the Court agrees with the Magistrate that Ms. Lang’s complaint (Doc. 2) is frivolous and fails to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2).


The Court reviews the remaining Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm

conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). This Court does not find that the Magistrate committed clear error. Furthermore, the Court finds any appeal from this order would not be taken in good faith because the record plainly shows Ms. Lang’s filings are frivolous and lack arguable substance in law or fact. Accordingly,

IT IS HEARBY ORDERED:

1. This matter is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2).
2. The Clerk of Court shall enter judgment against Ms. Lang and in favor of the Defendants.
3. The Clerk of Court shall have the docket reflect that any appeal of this decision would not be taken in good faith. Fed. R. App. P. 24(a)(3)(A).

DATED this 22nd day of October, 2019.


SUSAN P. WATTERS
UNITED STATES DISTRICT JUDGE